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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|-------------------------|-----------------------------------|
| 10/070,715 | 08/07/2002 | Gunther Spatz | 2169.GLE.PT | 2858 |
| 7590 | 05/11/2004 | | | EXAMINER HARMON, CHRISTOPHER R |
| Morriss Bateman O'Bryant & Compagni Suite 700 136 South Main Street Salt Lake City, UT 84101 | | | ART UNIT 3721 | PAPER NUMBER |
| | | | DATE MAILED: 05/11/2004 | |

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|----------------------|--------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/070,715 | SPATZ ET AL. |
| | Examiner | Art Unit |
| | Christopher R Harmon | 3721 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 01 April 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 10,12-16 and 18-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 10,12-16 and 18-29 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Request for Continued Examination

1. The Request for Continued Examination filed on 4/01/04 (RCE) under 37 CFR 1.114 based on parent Application No. 10/070,715 is acceptable and a RCE has been established. An action on the RCE follows.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 10, 12-16, 18-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Petho et al. (US 4,987,726).

Petho et al. disclose a method and device for filling and sealing containers in a clean environment with clean room 3. Containers are closed in a closing or stoppering station; see figure 7. Petho et al. disclose “The system, which is sealed from the exterior, is provided with known sealing lock arrangements for the sterile introduction of empty bottles,” etc. (see abstract, last sentence). Prior to entering the clean room 3 the containers are cleaned in cleaning lock 17 before entering tunnel 14; see figures 1 and

2. Second cleaning lock is provided (inside clean room) for sterile stoppers; see column 4, lines 27-33 and column 7, lines 47-60. The sterilization method disclosed uses an inert gasification device (nitrogen).

Regarding claims 15-16, Petho et al. disclose "Both the supply tunnel and the discharge or outfeed means are provided with a known sealing lock arrangement (not shown) for maintaining sterility and a suitable pressure... in the tunnel 14."(column 4, lines 6-9). Therefore, the filled and sealed bottles when returned to tunnel 14 are further cleansed (exterior) with a positive pressure before final discharge. The stoppers of filled bottles are then wrapped or encapsulated by a second or final sealing device (see column 13, lines 40-45).

The cleaning lock of Petho et al. contains a steam distributor (considered both a liquid and germicidal gas).

The stoppers/sealing devices are sterilized either before entering or in the magazine by "steam, washing liquid, etc." (column 4, lines 52-56).

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R Harmon whose telephone number is 703-308-8643. The examiner can normally be reached on Monday-Thursday from 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 703-308-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3721

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Eugene Kim
EUGENE KIM
PRIV. PAIR EXAMINER